

Department of Legislative Services  
Maryland General Assembly  
2014 Session

FISCAL AND POLICY NOTE

House Bill 388  
Judiciary

(Delegate Carter, *et al.*)

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**Inmates - Life Imprisonment - Parole Approval**

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This bill provides that a person eligible for parole, who is serving a term of life imprisonment for first degree murder involving specified circumstances in which the person was not a principal in the first degree to the crime, may be paroled by the Maryland Parole Commission (MPC) or the Patuxent Board of Review (PBR) without the approval of the Governor. The bill also provides that a person who is eligible for parole and serving a sentence of life imprisonment based on the person's conviction of an act committed while a minor may be paroled without the approval of the Governor.

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**Fiscal Summary**

**State Effect:** Although the bill causes some operational difficulties for MPC and PBR, the bill's requirements can be handled with the existing budgeted resources of the Department of Public Safety and Correctional Services (DPSCS).

**Local Effect:** None.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** The circumstances of first degree murder covered under the bill are murders committed in the perpetration of or an attempt to perpetrate:

- first degree arson;
- burning a barn, stable, tobacco house, warehouse, or other outbuilding that is not parcel to a dwelling and contains cattle, goods, wares, merchandise, horses, grain, hay, or tobacco;

- first, second, or third degree burglary;
- carjacking or armed carjacking;
- first degree escape from a State or local correctional facility;
- kidnapping or child kidnapping;
- mayhem;
- rape;
- robbery or robbery with a dangerous weapon;
- first or second degree sexual offense;
- sodomy; or
- a violation concerning the manufacture or possession of a destructive device.

**Current Law:** MPC has the exclusive power to authorize the parole of an inmate in State correctional facilities. PBR has the exclusive power to recommend an inmate for parole to the Secretary of Public Safety and Correctional Services or the Governor.

A person sentenced to a term of incarceration of six months or more is entitled to a parole hearing after having served one-fourth of the term or consecutive terms. A person serving a sentence for a crime of violence is not entitled to a parole hearing until after having served one-half of the term. Certain persons are not eligible for parole while serving a mandatory minimum sentence. A person sentenced to life imprisonment is not eligible for parole consideration until that person has served 15 years. A person sentenced to life imprisonment for first degree murder is not eligible for parole consideration until that person has served 25 years. An inmate sentenced to life imprisonment without the possibility of parole is not eligible for parole consideration and may not be granted parole at any time during the inmate's sentence. This does not restrict the authority of the Governor to pardon or remit any part of a sentence.

Chapter 299 of 2008 established medical parole as a form of release from incarceration in a State or local correctional facility for incapacitated inmates who, as a result of a medical or mental health condition, disease, or syndrome, pose no danger to public safety. A medical parole for a person serving a life sentence requires the approval of the Governor.

Chapter 623 of 2011 provided that, if MPC or PBR decides to grant parole to an inmate sentenced to life imprisonment who has served 25 years without application of diminution of confinement credits, the decision must be transmitted to the Governor, who may disapprove the decision in writing within 180 days. However, if the Governor does not disapprove the decision within that timeframe, the decision to grant parole becomes effective. For individuals whose parole recommendation was pending approval by the Governor on October 1, 2011, and who had served 25 years without consideration for

diminution credits, the Governor had 180 days after that date to disapprove the recommendation or the parole became effective.

Chapter 623 retained provisions requiring gubernatorial approval for parole of an eligible person or inmate serving a term of life imprisonment who has served 15 years considering allowances for diminution credits (or 25 years in the case of a person whose case started as a death penalty proceeding).

**Background:** There are 2,446 inmates in State correctional facilities serving life sentences for first degree murder. Of that number, 1,603 inmates are eligible for parole. An additional 497 inmates are serving a life sentence with all but a fixed term of years suspended. There are 346 inmates serving a life sentence without the possibility of parole and 364 inmates serving life sentences who were minors at the time of the offense or at the time of intake, involving cases for which the date of the offense was not entered into DPSCS's automated system at intake.

At the Patuxent Institution, there are a total of 75 persons serving a parole-eligible life term, including those with all but a fixed term of years suspended. The number who were minors at the time of the underlying offense is unknown.

DPSCS's automated systems do not distinguish among the types of first degree murder and do not identify co-defendants convicted of the same crime. The parole eligibility dates for the inmates affected by the bill are currently unknown.

**State Expenditures:** Under the bill, MPC must undertake a case-by-case review of 2,100 persons to identify inmates convicted under the circumstances covered by the bill. In addition, because current parole hearings are conducted as relatively informal interviews of inmates, MPC advises that the bill requires the adoption and use of more formal rules of evidence and proceedings at which prosecutors and defense attorneys would be permitted to submit information relating to the role of the inmate in the underlying murder. Formal presentations by attorneys are not currently permitted at the hearings.

Such a change in operations alters the nature of parole reviews and likely increases the duration of the reviews. The impact on those changes on the overall operations of MPC cannot be readily quantified at this time.

The bill likely results in the parole of more persons from State correctional facilities – or the same number of persons at an earlier date. Any additional persons released to Community Supervision can be handled with existing budgeted resources.

The Patuxent Institution reports that the bill's requirements do not have an operational or fiscal impact and do not affect staffing levels or inmate capacities.

Despite the bill's operational impacts, it is assumed that the bill's requirements can be handled with the existing budgeted resources of DPSCS and that State finances are not materially affected.

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### **Additional Information**

**Prior Introductions:** SB 492 of 2012, a bill with similar provisions, received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken. Senate Bill 584 of 2012, a bill with similar provisions, received an unfavorable report by the Senate Judicial Proceedings Committee.

**Cross File:** SB 953 (Senator Gladden) - Judicial Proceedings.

**Information Source(s):** Governor's Office, Department of Public Safety and Correctional Services, Department of Legislative Services

**Fiscal Note History:** First Reader - March 7, 2014  
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